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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/043,844	01/14/2002	Richard Jay	30314/89	1147

7590 06/19/2003

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90 Park Avenue  
New York, NY 10016

EXAMINER
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TRAN, KHOA H

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 06/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/043,844

Applicant(s)

JAY, RICHARD

Examiner

Khoan Tran

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1. 6) ☐ Other: \_\_\_\_\_

***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “stop means for limiting forward movement of articles on said standard depth display track” in claim 3 must be shown or the feature canceled from the claim. No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With respect to claims 1 and 7, the claims appear to be incomplete because it is unclear what “essentially identical” define and comparing with respect to what structure since both tracks are set forth to be essentially identical. With respect to line 7 of claims 1 and 7, the claims underline a function without reciting of acts for performing that function. Thus, it is unclear to what that element ultimately accomplishes in relationship to what the other elements of the claim and the claim as a whole accomplish. With respect to claim 2, line 3, it is unclear what “configured” is defining? In particular, how “configured” structurally defining the engagement means?

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Primiano et al. Primiano et al. disclose a depth-extendable display track of at least two essentially identical standard depth tracks comprising a front section (22) that has a stop means (30), a plurality of series breakaway intermediate sections (14, 16, 18, 20) and a breakaway back section (12). The front section (22) of the track has forward male engagement means of tongues (not numbered) that engage with rear engagement means of female grooves of the breakaway intermediate section (20). The series of breakaway intermediate sections (14, 16, 18 and 20) interconnect with the front (22) and back (12) sections. The intermediate and back sections (14, 16, 18 and 20) define at the front section (22) of the forward male engagement means for engage with the rear female engagement means at the rear of the back section (12). The intermediate sections (16, 18 and 20) have different length of depth from at least one another. See Figures 1 and 2.

Claims 1, 2, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Gutgsell. Gutgsell discloses a depth-extendable display track comprising at least two essentially identical standard depths of a front section track and a breakaway back section track (84), see Figure 6; each of the front and breakaway back section tracks

has forward and rear engagement means (86A, 87) for interconnecting with series of breakaway intermediate section track (83). The breakaway intermediate section track has a forward and rear engagement means (90 and 92) for engaging with respective forward and rear engagement means of the front and breakaway back section tracks, and wherein the forward and rear engagement means are interconnected with one another to form a male and female engagement. See Figures 2 and 5.

Claims 1, 2, and 5-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Slaiken. Slaiken discloses a depth-extendable display track comprising at least two essentially identical standard depth tracks of a front section (1), at least one interconnected series of breakaway intermediate section (3) and a breakaway back section (2). The front section has a forward engagement means (10). The breakaway back section has a rear engagement means (8). The breakaway intermediate section connects with the front and breakaway back sections. The intermediate and back sections (3 and 2) define at the front section (1) of the forward engagement means (10) for engagement with the rear engagement means at the rear of the back section (2) and the intermediate section.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kanki, Chen , Schaefer, Pikor, and C. W. Ulsh are cited to show similar configurations of design.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa Tran whose telephone number is (703) 306-3437.

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The examiner can normally be reached on Monday through Thursday from 9:30 A.M. to 7:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola, can be reached on (703) 308-2686. The fax phone number for this Group is (703) 305-3597 or (703) 305-3598.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-2168.

If the applicant is submitted by facsimile transmission, applicant is hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P. 502.02). In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check **should not be** submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P 512). The following is an example of the format the certification might take:

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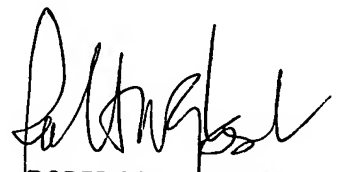
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(Signature)

Furthermore, please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Khoa Tran

June 5, 2003



ROBERT W. GIBSON, JR.  
PRIMARY EXAMINER  
ART UNIT 3634